

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863

Th9b



Filed: 2/28/2005  
49th Day Waived: 2/29/2005  
Staff: MW  
Staff report: 5/19/2005  
Hearing date: 6/9/2005  
Hearing item number: Th9b

**APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION****Appeal number** .....A-3-SCO-05-013, McNece SFD**Applicant** .....Elmer & Barbara McNece**Appellants** .....Les McCargo**Local government** .....Santa Cruz County**Local decision** .....Approved with Conditions (January 26, 2005)**Project location** .....622 and 624 Bayview Drive, in the Aptos-Rio del Mar area of south Santa Cruz County.**Project description** .....Remodel an existing 1,715 square foot single story residence and construction of a 1,000 square foot addition to an existing single family residence. Project also includes partial demolition of an existing garage encroaching on the property line.**File documents** .....Santa Cruz County Certified Local Coastal Program (LCP); Santa Cruz County CDP Application File 03-0430.**Staff recommendation** ...No Substantial Issue

**Summary of staff recommendation:** Santa Cruz County approved a proposal to remodel and construct a 1,000 square foot addition to an existing 1,715 square foot residence located on Bayview Drive in the Aptos-Rio Del Mar area of Santa Cruz County. The existing single story residence was originally constructed along the top of the shoreline bluff in the late 1930's along with a detached guesthouse. The applicant proposes a remodel and 1,000 square foot second story addition to the existing residence. The existing 642 square foot garage will reduced to 280 square feet. The Appellant contends that the approved project would adversely impact private views of the ocean, would inappropriately expand a non-conforming structure, would preclude public use of an access path down the bluff, requires a variance, should be evaluated as a single legal lot, and is incompatible with the neighborhood.

The County-approved project is similar in size, scale, and design to existing residential structures along this stretch of Bayview Drive. The existing residence and addition is located approximately 100' from the coastal bluff edge in an area with extensive residential development along the bluffs, and therefore will not significantly impact public views from the beach or Bayview Drive. The remodel and addition has been designed to decrease the existing non-conformities, and it will not interfere with public access to the beach, because no *public* access exists on the site and there is improved public access less than



California Coastal Commission

June 9, 2005 Meeting in San Pedro

Staff: M. Watson Approved by:

A-3-SCO-05-013 McNece NSI 5.19.05.doc

one-quarter mile to the south.

In sum, the County approved project is not atypical of existing residential development in this heavily developed shoreline area. Houses line the foot of the bluffs along the Beach Drive residential area as well as the residential blufftop area that includes Bayview Drive. This project will not significantly alter the public viewshed, will not affect public access, and would not be incompatible with the existing built environment.

Thus, Staff recommends that the Commission find that no substantial issue exists with respect to this project's conformance with the certified LCP, and that the Commission decline to take jurisdiction over the coastal development permit for the project.

## Report Contents

	page
1. Appeal of Santa Cruz County Decision .....	2
A. Santa Cruz County Action .....	2
B. Appeal Procedures .....	3
C. Appellants' Contentions .....	4
2. Staff Recommendation on Substantial Issue.....	4
Recommended Findings and Declarations.....	4
3. Project Description .....	4
A. Project Location .....	4
B. County Approved Project .....	5
4. Substantial Issue Findings .....	6
A. Policies Cited by Appeal.....	6
B. Analysis of Consistency with Cited Policies .....	6
C. Substantial Issue Conclusion .....	12
5. Exhibits	
Exhibit A: Location Map	
Exhibit B: County-Approved Site Plans and Elevations	
Exhibit C: Adopted Santa Cruz County Staff Report, Findings, and Conditions	
Exhibit D: Appeal of Les McCargo	

## 1. Appeal of Santa Cruz County Decision

### A. Santa Cruz County Action

Santa Cruz County approved this proposed project subject to multiple conditions on January 26, 2005 (see exhibit C for the County's adopted staff report, findings and conditions on the project). The County's approval was by the Planning Commission following an appeal of the Zoning Administrator's original approval. The current Appellant in this matter before the Commission is a neighbor and the



owner of the property east of the subject property lot. The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).<sup>1</sup>

Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on February 11, 2005. The Coastal Commission's ten-working day appeal period for this action began on February 14, 2005 and concluded at 5pm on February 28, 2005. One valid appeal (see below) was received during the appeal period.

## B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located seaward of the first public road and is located within 300 feet of the top of the coastal bluff.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is so located and thus this additional finding would need to be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

---

<sup>1</sup> Normally local appeals must be exhausted before an appeal can be made to the Coastal Commission. In Santa Cruz County's case, the appeals process is that Zoning Administrator decisions can be appealed to the Planning Commission, and Planning Commission decisions can be appealed to the Board of Supervisors (and the Board can also independently elevate an item to the Board for consideration). However, because Santa Cruz County charges a fee for local coastal permit appeals, aggrieved parties can appeal lower decisions directly to the Commission. Since the appeal in this case is of a Planning Commission decision, the Appellants have availed themselves of the direct appeal route.



## C. Appellant's Contentions

The Appellant contends that the approved project is inconsistent with the LCP in several areas: (1) the approved project would adversely impact private views of the ocean; (2) the approved project is inconsistent with the goals of the LCP because it will expand a non-conformity; (3) the project will impact public access to the beach; 4) there is only one legal lot of record; 5) the County-approved project requires a variance; and 6) the project, as proposed, will not compliment or harmonize with the surrounding neighborhood. Please see exhibit D for the Appellant's complete appeal document.

## 2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the County's decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

**Motion.** I move that the Commission determine that Appeal Number A-3-SCO-05-013 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.

**Staff Recommendation of No Substantial Issue.** Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**Resolution to Find No Substantial Issue.** The Commission hereby finds that Appeal Number A-3-SCO-03-032 does not present a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

## Recommended Findings and Declarations

The Commission finds and declares as follows:

## 3. Project Description

### A. Project Location

The proposed development is located on Bayview Drive in the unincorporated Aptos-Rio del Mar area of Santa Cruz County. Bayview Drive generally follows the coastal bluff above Rio Del Mar beach and



the Beach Drive residential area fronting the sandy beach and is the first public “through” road. Most, if not all, of the privately owned lots west of Bayview Drive have been improved with single-family residences and enjoy spectacular ocean and beach views. Similarly, the privately held properties east of Bayview Drive have been improved with single-family residences and also enjoy blue water views over and between the existing residences west of Bayview Drive. The character of the residential stock is somewhat eclectic, and most homes have two-story elements if not full second stories. The coastal bluff in this area is very steep, rising approximately 70’ from the toe of the bluff to the existing Bayview Drive elevation. Most of the bluff top lots on Bayview extend from the toe of the bluff at Beach Drive to the County road right-of-way at Bayview Drive. At the toe of the bluff are a string of residential homes on Beach Drive fronting the beach between State Parks’ Seacliff State Beach unit and Hidden Beach. See exhibit A for a location map of the project area.

The proposed project is located on two lots at 624 and 622 Bayview Drive (APNs 043-152-12 and 043-152-13). These two sites were originally one lot, but were subdivided into two legal parcels in the 1960’s. Both properties remain in common ownership, though are recognized as separate legal lots. The main residence, which is the subject of the remodel and addition (APN 043-152-12), is a 1,715 square foot one-story single-family residence and is located closest to Bayview Drive –approximately 100’ from the bluff edge. A portion of the attached 2-car garage encroaches onto parcel 13 (APN 043-152-13, 622 Bayview). The Appellant owns a neighboring property generally east (inland) of the subject site. The site is designated in the LCP Land Use Plan (LUP) as Urban Low Residential, and zoned R-1-6, Single-Family Residential (6,000 sq. ft. minimum). Please see exhibit A for map of the site and surrounding area.

## B. County Approved Project

The County approved a remodel and 1,000 square foot addition to an existing 1,715 square foot, single family, one-story residence. Of this amount, nearly the entire additional floor area is a second-story addition to the northwest wing of the existing U-shaped residence on parcel 12. The project also includes demolition of 365 square feet of garage space that currently straddles the lot line for parcel 12 and the entrance drive to the rear lot (parcel 13). The demolition will make it so that each lot contains separate residential structures that do not cross property lines.<sup>2</sup> The County allowed a variance to the side yard setback for maintaining the remaining portions of the garage within 2 feet of the property line.

See exhibit B for County-approved plans and exhibit C for the adopted County staff report, findings, and conditions approving the project.

---

<sup>2</sup> The LCP designates structures across property lines as “significantly non-conforming.” The demolition corrects the significant non-conformity



## 4. Substantial Issue Findings

### A. Policies Cited by Appeal

The Appellant identifies LCP policy 13.20.130 as the main basis for his appeal. Aside from this one LCP policy, the Appellant generally refers to the project not meeting other goals of the LCP, such as not being compatible with the neighborhood, expanding non-conformities, impacting public access and having adverse view impacts. The Appellant also raises issues about the variances approved in this case (allowing for a reduction in the side yard setback from 5 feet to approximately two feet ), and that they don't conform to the LCP. Note that this variance contention could be read to mean both that variances are not allowed by the LCP, as well as that the impacts of the variances (on LCP goals, compatibility, and views) are not consistent with the LCP. See exhibit D for the Appellant's complete appeal document.

Thus, the appeal contentions can be distilled to a contention that the approved project would be incompatible with the neighborhood's built environment, would adversely impact private and public views due to the mass, scale, and design approved, and would interfere with public access. LCP "goals" are inherent in this discussion, as are related technical issues regarding variances.

### B. Analysis of Consistency with Cited Policies

As detailed below, the appeal does not raise a substantial issue with respect to the project's conformance with the Santa Cruz County LCP.

#### 1. Neighborhood Compatibility

The LCP requires visual compatibility. For example, LCP Section 13.20.130(b)(1) states:

*Visual Compatibility. All new development shall be sited, designed, and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

The Appellant contends that the size and scale of the project is not compatible with neighboring development along Bayview Drive and will expand an existing non-conformity. However, the proposed structure is the same general size and scale of development that is currently found along this part of Bayview Drive. Aerial photographs of the surrounding neighborhood show that there are numerous two-story structures in close proximity to the proposed development that can provide neighborhood compatibility context. Maximum height allowed in the R-1-6 zoning district is 28' and the proposed finished roof height of the structure will be 26' 4," which is within the limits of the standard. The addition is setback approximately 100 ft. from the bluff edge, and is inland of existing residential development located along the bluff at this location. In other words, the project blends into the existing built environment.

The County found the project to be within the floor area ratio (FAR) for development in the R-1-6 district: FAR is 41.6% when 50% is the maximum allowed. Although a portion of the garage would be



removed, the structures on site will remain non-conforming with respect to lot coverage. Lot coverage is 32.5% when 30% is the maximum allowed. This is a fairly minor deviation at this location inasmuch as its effect on coastal resources is negligible. The proposed addition will not alter the existing footprint, save for removal of the existing portion of the garage encroaching onto parcel 13. See County report in exhibit C.

The County also indicates that the habitable space is within the established range for homes in this section of Bayview Drive. The County indicates that the project is located in a neighborhood with one and two-story single family dwellings of varying sizes, with the largest homes on the bluff side of Bayview Drive in the range of 2,000 square feet to 4,000 square feet. In this case, 2,705 square feet of habitable space was approved. Again, see County report in exhibit C.

Another contention raised by the Appellant is that the second story element and related neighborhood compatibility issues could have been avoided if the County had reviewed the project as one large site containing two residences (i.e., as if APNs 943-152-12 and -13 were one legal lot with two single family dwellings). Historically there has been some confusion and inconsistency in the treatment of these two sites. In one instance, the County approved an addition to the existing single-family dwelling on parcel 13 separate from the dwelling on parcel 12. In another instance, the County approved the construction of an addition to the garage attached to the dwelling on parcel 12 where the plans submitted represented both parcels as one lot. The addition resulted in the two-car garage that now straddles the property line between parcels 12 & 13, effectively blocking the driveway corridor to parcel 13. During its review and approval of this appealed application, the County first acknowledged that current deeds describe both properties as one parcel but later changed its position under advisement from County Counsel.

The Appellant appears to be implying that if there was only one lot, the Applicant might not have been approved for a second story element that blocks private views. But that is not the case because the zoning for this area would allow the two-story addition whether there were one or two parcels. As noted above, the proposed addition is compatible in size and scale to existing neighborhood development. It is consistent with the development and visual compatibility policies of the certified LCP and will correct an existing significant non-conformity, albeit with a variance. The proposed project will not introduce any atypical visual impacts to the surrounding area. (see also Visual Resources finding below).

The main implication of recognizing a second legal lot lies in the future development potential of the adjacent site to the west ( i.e. on APN 043-152-13) **not** the site on which the two-story addition is proposed. If it had been determined that there was only one legal lot of record and if there were an application for residential development involving the second unit at the rear of the site, this second unit would be limited to the floor area and coverage standards of 640 square feet for “granny” units as opposed to those for a the primary single family residence. That is however, not at issue in this case. Nonetheless, the public view shed in this area has seen a significant amount of urban development in and along the coastal bluffs, and as a result, is fairly cluttered with residential structures. Accordingly, although the fact that the County treated these properties as separate legal lots when the history of lot creation is rather unclear raises an issue, it does not rise to the level of substantial issue.



In sum, the County-approved project is not atypical of the size and scale of development along this stretch of Bayview Drive. The proposed second story addition is a relatively modest size second floor in comparison to other homes located in this built out neighborhood. Overall height is below the maximum allowed. The existing lot coverage non-conformity will remain, but the proposed development will not make it worse. With a floor area ratio of 41.6% the proposed remodel and addition is still below that which is allowed. And the proposed architectural design appears to be compatible with the character of the neighboring development along Bayview Drive.

Therefore, this issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

## 2. Visual Resources

In addition and related to the compatibility issues described above, the LCP protects the public viewshed, particularly along the shoreline. The LCP states:

***Objective 5.10.a Protection of Visual Resources.*** To identify, protect, and restore the aesthetic values of visual resources.

***Objective 5.10.b New Development in Visual Resource Areas.*** To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.

***LUP Policy 5.10.2 Development Within Visual Resource Areas.*** Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....

***LUP Policy 5.10.3 Protection of Public Vistas.*** Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

The Appellant contends that the approved project adversely impacts his (and other Bayview Drive homeowners) private views, and would severely negatively impact the public view, particularly due to the second-story. The LCP does not protect private views. As a result, the private view portion of this contention does not raise a substantial issue. As to public views, the existing single story residence blocks any public views from Bayview Drive. The biggest concern in this case is therefore to the view of the site from the beach and offshore.

The public beach and offshore viewshed at this location has long been defined (mostly pre-Coastal Act) by existing residential stock, seawalls, and rip-rap along Beach Drive, and by homes extending all along the top the bluff (including Bayview Drive) fronted in many cases by larger retaining structures. The homes along Beach Drive are relatively boxy and developed close together. There are multiple 2 and 3 story residential structures on the inland side of Beach Drive, and a series of 1 and 2 story structures on





the seaward side. Rip-rap and seawalls front all of the homes, and many include large decks and other structures extending to the shoreline armoring. Atop the bluffs, fairly large-scale residential development lines the meandering edge. More often than not, large retaining walls and like structures extend down the bluff slope. In other words, the public viewshed at this site has long been impacted by similar urban style development and is hardly pristine. It is against this backdrop that the project's viewshed impacts must be evaluated.

In this case, the approved project is a second story addition to an existing dwelling between two existing residences and setback nearly 100' from the coastal bluff edge. Although it will incrementally add to the amount of development within the public viewshed, its impact would be less than significant within the scope of the existing view. Its size and scale are not atypical for this stretch of Bayview Drive, and the setback will make it appear less visible than other dwellings constructed right up to the edge of the bluff.

This issue does not rise to the level of a substantial issue in terms of the project's conformance with the certified LCP.

### 3. Public Access

The Appellant contends that there may be a public prescriptive right to use of an access path to the beach that originates at the rear of the second property nearest the ocean (APN 043-152-13). He claims there was neighborhood use of an existing trail down to the base of the bluff and asks that a prescriptive rights survey be prepared. Coastal Act Section 30211 states in part that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization. Section 30212 states that public access shall be provided in all new development except where adequate access exists nearby.

***Section 30211.** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212.** (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby...*

The site of the proposed addition (622 Bayview, APN 043-152-12) does not have access to the bluff or any potential trail down the bluff. The flag lot property at the rear of the site (624 Bayview, APN 043-152-13) does extend down the bluff. However, based on a visual inspection of the site; there is no access down the bluff to Beach Drive below. There are some steps that traverse partway down the steep sea cliff, but end mid-face in an overgrown patch of poison oak and pampas grass directly above the row of houses fronting Beach Drive.



There also does not appear to be any *public* access to this trail from either property. Access from Bayview is blocked by a locked gate and not available to anyone other than the resident at 624 Bayview. Based on the lack of a defined trail, the lack of any information (from the appellant or otherwise), identifying significant public use of a trail, and the fact that major public access points (from bluff level down to beach exist nearby), it appears improbable that the “trail” is a “public trail” at this time.

The County-approved project includes a roughly 1,000 square feet second story addition to an existing residence and removal of a portion of the garage that straddles the lot lines. The new structure will be constructed within the building footprint of the existing residence and therefore there is no potential for the development to impact access and no nexus to require it. Furthermore, there are public beach access paths down the bluff at two locations within a few minutes of this site. There is the County access path that runs from Kingsbury Drive down to the State Park unit at the (public) end of Beach Drive and an improved access path and recreation area to Hidden Beach. Both are a short walk from the proposed development site and provide convenient and safe public access to the beach.

Therefore, there is no substantial issue in terms of the project’s conformance with the Public Access policies of the certified LCP and the public access and recreation policies of the Coastal Act.

#### 4. Variances

The Appellant appears to contend that the County’s approval in this case does not conform to the LCP, because it is predicated on one or more variances. He notes that the project could not be approved if it weren’t for variances to the side yard setback, the front yard setback, and lot coverage. However, the LCP allows for variances to development standards in certain circumstances. LCP Section 13.10.230 (Variance Approvals) states:

*A Variance Approval is a discretionary authorization of exceptions to the zoning district site and development standards for a property including design criteria and regulations for special uses...The following findings shall be made prior to granting a Variance Approval in addition to the findings required for the issuance of a Development Permit pursuant to Chapter 18.10:*

- 1. That because of special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*
- 2. That the granting of such variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity.*



3. *That the granting of such variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.*

In this case, the required side yard setback in the R-1-6 zoning district is 5 feet and maximum lot coverage 30%. Reconstruction of the demolished garage is constrained by the U-shaped design of the existing residence, the driveway corridor to parcel 13, and the width of the lot. Demolition and reconstruction of the garage will eliminate the encroaching significant non-conformity onto parcel 13 and realign the structure with the existing residence, but will not eliminate the side yard and lot coverage non-conformities. Strict application of the ordinance would require the removal of the entire garage (due to lot coverage) and deny the applicant the privileges enjoyed by other property owners absent significant alterations to the footprint of the existing residence. As reported in the Neighborhood Compatibility finding above, lot coverage will be 32.5%.

Secondly, granting of the variance will be consistent with the intent of the zoning district and not be detrimental or injurious to the public, property, or improvements in the vicinity. The side yard setback is from the driveway access to parcel 13, an area that will remain undeveloped and will act as an additional setback from neighboring structures. The demolition and reconstruction of the garage will remedy an existing significant non-conformity (encroachment over the property line) further enhancing the objectives of the zoning district. Relocation of the garage complies with County requirements for adequate sight distance for structures within setbacks.

With respect to the third point, granting a side yard setback variance to retain a one-car garage adjacent to the driveway access for parcel 13 does not constitute a grant of special privilege. The existing residence on parcel 12 already exceeds the maximum 30% lot coverage for the R-1-6 zone district, so the complete demolition and reconstruction of a new one-car garage in a conforming location would not be possible without a variance to lot coverage. All neighboring properties have at least one-car garages, most have two or more. Thus, retention of a one-car garage will not constitute a grant of special privilege. Similarly, the Bayview neighborhood contains many two-story homes with virtually all homes having their parking in the front yard setback. Therefore, allowing parking to occur within the front yard setback would not appear to constitute a grant of special privilege.

The County approval clearly indicates that a variance was granted for the side yard setback, but less clear regarding variances to lot coverage and front yard. Though the requisite findings were made for variances to lot coverage and front yard setback, only the side yard setback variance appears to be specifically identified in the project description and approved by the Planning Commission. From a procedural standpoint this raises an issue, but it is not a coastal resource issue. Presumably, if explicitly identified, the County would have authorized the additional minor variances for the same types of reasons they identified in their variance findings.. In any case, the County's approval de facto allowed for them and the resulting project. The project impacts do not raise substantial issue (see previous sections). Thus, although the appeal raised a valid procedural issue, it does not rise to the level of substantial issue.



Therefore, there is no substantial issue in terms of the project's conformance with the certified LCP.

### C. Substantial Issue Conclusion

The County-approved project is residential development that is not atypical from the existing Bayview Drive character in size, scale, and design. The approved project is substantially consistent with neighboring development and would have an insignificant impact on the public viewshed. Granting of variances for the yards and lot coverage is consistent with the intent of the zoning district and will not be detrimental or injurious to the public, property, or improvements in the vicinity. There also does not appear to be any prescriptive use or other public access impacts associated with the project.

Thus, the Commission finds that no substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP and the public access and recreation policies of the Coastal Act and declines to take jurisdiction over the coastal development permit for the project.

